

Remarks

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Claims 1, 4, 5, 7, 10-15, 17-29, 47 and 70-72 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-94 of U.S. Patent No. 6,224,548 in view of *David*.

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Claims 1, 4, 5, 7, 10-15, 17-29, 47 and 70-72 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-37 of U.S. Patent No. 6,540,673 in view of *David*.

Claims 1, 4, 5, 7, 10-15, 17-29, 47 and 70-72 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-64 of U.S. Patent No. 6,595,914 in view of *David*.

Applicants traverse each of the above double patenting rejections. With respect to each of the double patenting rejections, the Patent Office states that *David* shows a similar glove member and that it would have been obvious to modify the previous invention to use 12 electrodes, as it is merely the substitution of one known diagnostic device for another. Applicants respectfully disagree with this assertion. *David* does not disclose a device similar to that which is claimed. *David* discloses a measuring system comprising a combination sleeve

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and glove. The system in *David* has five EKG sensors located on the sleeve portion that extends on the forearm and bicep area of the arm. There is no suggestion in *David* that the present design could be achieved. As set forth in *David* at column 6, lines 28-31, the location of the sensors on the glove and sleeve allow the patient to simply place his left arm on the chest to assure proper localization of the 12 lead EKG electrodes to accurate and reproducible ECG recording. *David* makes no mention that this placement can be modified. Accordingly, Applicants respectfully request a withdrawal of each of the double patenting rejections.

Claims 6, 8, 16, 17, 33, 37-47, 48-69 and 73-76 were rejected under 35 U.S.C. § 112, first paragraph. The Patent Office states that Applicants have recited in these claims that two of the electrodes face the dorsal surface of the member and that it is unclear how one uses such electrodes to make an EKG measurement. Applicants wish to direct the Patent Office's attention to page 6, lines 4-10 where the description of sensors 40i and 40j are discussed. Sensors 40i and 40j, in one embodiment, are allowed to contact a person's hand when the glove probe 12 is worn by a person. In another embodiment, sensors 40i and 40j could be positioned on the dorsal side of the glove probe facing away from the polymer side of the glove probe and activated by placing the patient's free hand over the dorsal side of the glove probe. Further discussion of how the measurements are taken are contained on pages 9-11 of the application. With respect to the discussion on page 10 about electrodes 40i and 40j, this discussion on page 10 is indicating where the sensors would generally be located relative to a person's body when the probe is being used. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 112, first paragraph rejection.

Claims 1, 4, 5, 7, 14, 15, 17-29, 47 and 70-72 have been rejected under 35 U.S.C. § 102(e) as being anticipated by *David*. Applicants respectfully traverse this rejection.

To anticipate a claim, a reference must place the invention in the possession of the public. Applicants respectfully submit that *David* does not do this. *David* shows only a glove and sleeve combination. *David's* sleeve extends from the wrist to the upper bicep area. Furthermore, *David* only describes the placement of the sensors and the operation of the glove

with respect to the illustrated glove and sleeve combination. Even though *David* states that the garment of the invention is preferably in the form of a glove or sleeve, *David* does not provide any enabling disclosure directed to a glove embodiment. Each of the independent claims rejected (claims 1, 47 and 70) all recite that there are at least eight sensors on the member that comprises a palm portion, a wrist portion and a plurality of phalange portions. At best, *David* discloses only six sensors on such a member, with at least four of the sensors being located elsewhere on a sleeve member.¹ Accordingly, *David* does not anticipate the claims of the present invention. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(e) rejection.

The remaining rejected claims all depend either directly or indirectly from an allowable independent claim and are therefore patentable for at least the same reasons as their independent claim. Moreover, these claims add further features and limitations which render them separately allowable.

Applicants submit that the application is in a condition for allowance and respectfully requests a notice to that effect. If the Examiner believes that telephone conference will advance the prosecution of this application, such a conference is invited at the convenience of the Examiner.

¹ Applicants respectfully point out that the Patent Office states that *David* discloses 11 electrodes. However, *David* only discloses 10 electrodes. If the electrode on the sling (the RA electrode) is to be counted, the RA electrode shown in Figure 3 at the tip of the index finger cannot be counted. (See column 3, lines 32-35.)

A check in the amount of \$510.00 is enclosed to cover the 3 Month Extension of Time Petition fee. Please charge any additional fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978 -- a duplicate of this paper is enclosed for that purpose.

Respectfully submitted,

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